

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JEFFERY CARDONA,
Plaintiff,

v.

BLANCHE CARNEY, et al.,
Defendants.

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CIVIL ACTION NO. 21-CV-4376

ORDER

AND NOW, this 20th day of October, 2021, upon consideration of Plaintiff Jeffrey Cardona's Motion to Proceed *In Forma Pauperis* (ECF No. 3), Prisoner Trust Fund Account Statement (ECF No. 4), and *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Jeffrey Cardona, #1067444, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Curran-Fromhold Correctional Facility or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Cardona's inmate account; or (b) the average monthly balance in Cardona's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Cardona's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Cardona's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of Curran-Fromhold Correctional Facility.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, Cardona's claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), with the sole exception of his excessive force claim against Defendant C/O Felts in his individual capacity.

6. The Clerk of Court is directed to **SEND** Cardona a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.¹

7. Cardona is given thirty (30) days to file an amended complaint in the event he can allege additional facts to cure the defects in his dismissed claims. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Cardona's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 21-4376. **If Cardona files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Cardona's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims.** Claims that are not included in the amended complaint, including Cardona's excessive force claim against Defendant Felts, will not be considered part of this case. When drafting his amended complaint, Cardona should be mindful of the Court's reasons for dismissing his claims as explained in the

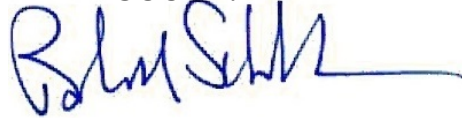
¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. If Cardona does not file an amended complaint the Court will direct service of his initial Complaint on Defendant C/O Felts only. Cardona may also notify the Court that he seeks to proceed on this claim rather than file an amended complaint. If he files such a notice, Cardona is reminded to include the case number for this case, 21-4376.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case if summonses are issued.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Berle M. Schiller", written over a horizontal line.

BERLE M. SCHILLER, J.